

Message Text

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ACTION PM-04

INFO OCT-01 EUR-12 ISO-00 L-03 CIAE-00 INR-07 ACDA-07
NSAE-00 PA-01 SS-15 PRS-01 SP-02 USIA-06 TRSE-00
OES-06 EPA-01 CEQ-01 /067 W
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R 281524Z MAR 77
FM AMEMBASSY THE HAGUE
TO SECSTATE WASHDC 161
INFO AMEMBASSY LONDON
USMISSION NATO
SECDEF
USEUCOM
USNMR SHAPE
USAFE/JAI RAMSTEIN GER

LIMITED OFFICIAL USE SECTION 1 OF 2 THE HAGUE 1622

E.O. 11652: NA
TAGS: MARR NATO NL
SUBJECT: NETHERLANDS WATER POLLUTION TAXES ON US FORCES

REF: (A) STATE 62703 (NOTAL), (B) USNATO 1651 (NOTAL)

1. FOR SEVERAL YEARS GON MINISTRIES HAVE BEEN CARRYING ON AN INTERNAL DEBATE OVER THE APPLICABILITY OF A NUMBER OF TAXES(WATER POLUTION, DOG, RADIO/TC) TO FOREIGN MILITARY PERSONNEL STATIONED IN THE NETHS UNDER NATO SOFA. EMBASSY HAS MAINTAINED CONTACT WITH FOREIGN MINISTRY OFFICIALS OVER THE YEARS AS THE DSUCISSION WITHIN GON EFFED AND FLOWED. AT VARIOUS TIMES MINISTRIES OF FINANCE, JUSTICE, TRANSPORTATION AND WATERWAYS, INTERIOR AND ENVIRONMENT HAVE BEEN INVOLVED. SUBJECT, WHICH EMBASSY FILES INDICATE DATES BACK AT LEAST TO 1971, HAS BEEN ON BACK BURNER FOR SOME TIME AS DISCUSSIONS WITHIN GON CONTINUED. DURING THIS TIME A FEW LOCAL JURISDICTIONS ROUTINELY SENT OUT NOTICES TO AMERICAN PERSONNEL.

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EMBASSY WAS USUALLY ABLE TO HANDLE THESE BY TELEPHONING MFA WHICH WOULD INFORM LOCAL AUTHORITIES THAT MATTER WAS UNDER REVIEW AT NATIONAL LEVEL. INCREASINGLY, US PERSONNEL RENTING HOUSING ON THE LOCAL MARKET HAVE INSISTED THAT LESSOR INCLUDE CLAUSE IN LEASE ACCEPTING RESPONSIBILITY FOR ALL TAXES AND SERVICE CHARGES.

2. GON HAS NOW DECIDE THAT DOG TAX AND WATER POLLUTION TAX ARE PROPERLY COLLECTIBLE. RADIO AND TV TAX HAS BEEN JUDGED TO BE A TAX ON TANGIBLE MOVABLE PROPERTY, THUS PERSONNEL ARE EXEMPTED UNDER ARTICLE X OF NATO SOFA.

3. ACCORDING TO MFA, THE WATER POLLUTION TAX (THE POLLUTION OF SURFACE WATERS ACT, 1969) IS A LEVY IMPOSED ON ALL PERSONS ALLOWING WASTER MATTER, POLLUTANTS OR NOXIOUS SUBSTANCES TO BE DISCHARGED INTO SURFACE WATERS. THE LEVY MAY BE IMPOSED TO OFFSET THE COST OF MEASURES TAKEN TO REDUCE OR PREVENT POLLUTION OF SURFACE WATERS. THE TOTAL COST OF MAINTAINING WATER QUALITY IS APPORTIONED AMONG ALL THOSE CAUSING POLLUTION IN AN AREA, WITH THE AMOUNT OF THE LEVY BEING DETERMINED BY THE EXTENT OF THE POLLUTION CAUSED. (POLLUTER APYS PRINCIPLE WHICH GON HOLS IS WIDELY ACCEPTED BY OTHER COUNTRIES.) DUTCH TAKE THE POSITION THAT WATER POLLUTION LEVY IS A PAYMENT FOR SERVICES RENDERED. LEVY IS ASSESSED LOCALLY BY POLLUTION CONTROL BOARDS AND MONIES COLLECTED DO NOT RPT NOT GO INTO GENERAL REVENUE.

4. FULL DUTCH TEXT OF POLLUTION OF SURFACE WATERS ACT, 1969 BEING POUCHED TO EUR/RPM. FOLLOWING IS INFORMAL EMBASSY TRANSLATION OF ARTICLE 17 AND PARA ONE OF 18:

BEGIN TEXT: CHAPER IV. LEVIES AND CONTRIBUTIONS.

ARTICLE 17.1.1. THE STATE, THE PROVINCE OR A PUBLIC AUTHORITY WHOSE GOVERNMENT HAS BEEN GIVEN THE FULL POWER REFERRED T IN ARTICLE 6, 1ST PARAGRAPH, IS AUTHORIZED TO MEET THE COSTS OF LIMITED OFFICIAL USE

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STEPS TO STOP OR PREVENT SURFACE-WATERS FROM BEING POLLUTED, TO INSTITUTE LEVIES ON THOSE WHO INTRODUCE DIRECTLY OR INDIRECTLY INTO SURFACE-WATERS MATERIALS (POLLUTANTS) REFERRED TO IN ARTICLE 1, AS WELL AS ON THOSE WHO HAVE BEEN GIVEN A DECLARATION OF INADEQUACY AS REFERRED TO IN ARTICLE2.

2. A PUBLIC AUTHORITY RESPONSIBILITIES REFERRED TO IN ARTICLE1, FIRST PARAGRAPH, IS AUTHORIZED TO MEET THE COSTS OF STEPS TO STOP AND PRECENT SURFACE-WATER POLLUTION BY DEMANDING A CONTRIBUTION FROM THOSE WHO DIRECTLY OR INDIRECTLY ARE RESPONSIBLE.

E. AMONG THE COSTS OF MEASURES TO STOP OR PREVENT SURFACE-WATER POLLUTION MUST ALSO BE INCLUDED LEVIES, PURSUANT TO THE FIRST PARAGRAPH.

ARTICLE 18. 1. THE BASIS FOR THE LEVIES AND CONTRIBUTIONS IS THE QUANTITY OR QUALITY OR BOTH OF THE WASTE MATERIALS, POLLUTION OR HARMFUL SUBSTANCES IN ANY FORM WHICH ARE RELEASED INTO SURFACE-WATERS.

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R 281524Z MAR 77
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5. WATER POLLUTION LEVY IS APPLIED BOTH TO MILITARY INSTALLATIONS AND TO PERSONAL RESIDENCES. MFA TELLS US THAT IN ADDITION TO DECISION AFFECTING PERSONNEL (REF A). AFCENT HEADQUARTERS HAS JUST LOST AN ADMINISTRATIVE APPEAL IN LIMBURG ON THE APPLICABILITY OF THE WATER POLLUTION LEVY TO ITS INSTALLATIONS. LEVY APPLIES NOT ONLY TO AFCENT HEADQUARTERS AND TO US MILITARY AND CIVILIAN PERSONNEL ATTACHED TO THAT NATO COMMAND BUT ALSO TO OTHER US MILITARY AND CIVILIAN PERSONNEL STATIONED IN THE NETHS UNDER THE SOFA, FOR EXAMPLE THE 32ND TACTICAL FIGHTER SQUADRON AT CAMP NEW AMSTERDAM, US ARMY TRANSPORTATION TERMINAL GROUP EUROPE AT ROTTERDAM, 8TH AND 23RD US FIELD ARTILLERY DETACHMENTS AT STEENWIJK AND HET HARDE AND 7362ND MUNITIONS SUPPORT SQUADRON AT VOLKEL. EXCEPT FOR AFCENT, WE ARE UNAWARE OF ANY SITUATION WHERE FACILITIES RATHER THAN PERSONNEL HAVE BEEN ASSESSED THE WATER POLLUTION CHARGE. IN THE CASE OF PERSONNEL, LEVY IS NEITHER BASED ON RESIDENCE NOR ON DOMICILE, BUT ON THE POLLUTION ANYONE ALLOWS TO BE RELEASED INTO THE SURFACE

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WATERS. DUTCH OFFICIALS SAY IT COULD EVEN BE APPLIED TO TOURISTS VIA AN INCREASE IN HOTEL CHARGES. THEY ALSO MAKE THE POINT THAT IF AN OCCUPANT OF A DWELLING CAN PROVE TO THE AUTHORITIES THAT HE DOES NOT POLLUTE BECAUSE HE TREATS HIS OWN WASTE BEFORE RELEASING IT THEN HE WOULD BE EXEMPTED FROM THE CHARGE.

6. MFA OFFICIALS TELL US THAT AFCENT ALSO RESISTS DUTCH ATTEMPTS TO COLLECT THE OLD "PERSONELE BELASTING." (TAX ON OCCUPIED PREMISES) AND ITS SUCCESSOR THE "ONROEREND GOED BELASTING" (REAL PROPERTY TAX). DUTCH HIGH COURT DECIDED IN 1961 THAT THE PERSONELE BELASTING WAS NOT A TAX DEPENDENT UPON RESIDENCE OR DOMICILE OR ON TANGIBLE MOVABLE PROPERTY BUT ON THE OCCUPATION OF PREMISES AS A PRIVATE DWELLING. IN AN EXCHANGE OF NOTES WITH THE FOREIGN MINISTRY IN 1966 THE EMBASSY CONCEDED THAT US MILITARY PERSONNEL WERE NOT EXEMPT FROM THE PERSONEL BELASTING PER SE, BUT SHOULD BE EXEMPTED FROM THAT PART OF THE TAX WHICH MIGHT BE BASED ON THE PERSONAL FURNISHINGS OF THE OCCUPANT. TAX SHOULD BE REDUCED PRO TANTO WE CLAIMED. DUTCH HAVE ALWAYS HELD THAT THE ENTIRE AMOUNT WAS LEVIED ON THE PREMISES AND NOT ON THE FURNISHINGS. THE MINISTRY OF THE INTERIOR INFORMED THE MFA RECENTLY THAT THE ONROEREND GOES BELASTING WHICH HAS SUCCEEDED THE PERSONELE BELASTING WAS LIKEWISE BASED ON OCCUPATION OF PREMISES AND THAT IT WAS FELT THE DECISION OF THE HIGH COURT WOULD STILL APPLY. THE FOREIGN MINISTRY HAS REMINDED US OF OUR 1966 CONCESSION ON THE POINT OF THE PERSONELE BELASTING AND ASKS THAT WE INSTRUCT AMERICAN MILITARY PERSONNEL WHO ARE NOT PAYING THE NEW TAX OF THEIR OBLIGATIONS.

7. FRANKLY WE BELIEVE THE GON IS ON FIRM GROUND WITH REGARD TO THESE TAXES. SHOULD STATE AND DOD DECIDE TO CONTEST THE WATER POLLUTION OR THE REAL PROPERTY TAX ON THE BASIS OF ARTICLE X OF THE SOFA IT WOULD SEEM BEST TO DO IT IN CONCERT WITH OTHER AFFECTED ALLIES IN ANTO WHERE IT IS ALREADY BEING LIMITED OFFICIAL USE

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HANDLED. DUTCH HOPE IT WILL BE HANDLED BY LEGAL EXPERTS, HOWEVER, AND NOT BECOME A POLITICAL PROBLEM. MFA OFFICIALS TELL US INFORMALLY THAT THEY FIRMLY BELIEVE THE GON IS ON SOLID GROUND WITH REGARD TO THE WATER POLLUTION TAX. THEY ALSO ARE CONVINCED THAT THE ONROEREND OGED BELASTING IS LEGALLY COLLECTIBLE. ON A PERSONAL AND STRICTLY UNOFFICIAL BASIS THEY HAVE TOLD US THAT IN THE MFA SOME CONSIDERATION IS BEING GIVEN TO THE IDEA OF AGAIN TAKING UP THE QUESTION ONROEREND GOED BELASTING WITH OTHER MINISTRIES. WITHOUT HOLDING OUT GREAT HOPE FOR AN ACCOMMODATION ON THIS TAX THEY DID INDICATE THAT THERE MIGHT RE-

PEAT MIGHT BE AN EFFORT BY MFA TO SEEK SOME RELIEF.

8. THIS MESSAGE COORDINATED WITH LEGAL ADVISOR, US COUNTRY
REPRESENTATIVE THE NETHERLANDS AT CAMP NEW AMSTERDAM.
MCCLOSKEY

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: REPORTS, TAX LAW, MILITARY PERSONNEL
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Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
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